

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GEORGE L. CAMBERIS, et al.,

Plaintiffs,

v.

OCWEN LOAN SERVICING LLC,

Defendant.

Case No. 14-cv-02970-EMC

**ORDER FOR SUPPLEMENTAL
BRIEFING RE DEFENDANT'S
UNOPPOSED MOTION FOR
PROPOSED DISTRIBUTION OF
UNCLAIMED CLASS SETTLEMENT
FUNDS**

Docket No. 82

The Court granted final approval of the parties' settlement agreement in this case on December 7, 2015. *See* Docket No. 80 (order). Defendant Ocwen Financial Corporation filed an unopposed motion to distribute the as yet unclaimed funds—totaling approximately \$108,000—between the claims administrator to pay its outstanding fees and two housing-based charity organizations. *See* Docket No. 82 (motion).

The *cy pres* doctrine allows a court to distribute unclaimed or non-distributable portions of a class action settlement fund to indirectly benefit the entire class. *Six Mexican Workers v. Ariz. Citrus Growers*, 904 F.2d 1301, 1305 (9th Cir. 1990). But “before a court invokes its *cy pres* power . . . it must ask three questions: (1) to whom does the residue belong, (2) would it be practicable to distribute the residue to its owners and (3) if not, who is an appropriate alternate recipient?” *In re Wells Fargo Sec. Litig.*, 991 F. Supp. 1193, 1195 (N.D. Cal. 1998). This reflects “the law’s general preference for *cy pres* awards to be limited to scenarios where it is not feasible to make further distributions to class members.” *In re Anthem, Inc. Data Breach Litig.*, No. 15-MD-02617-LHK, 2018 WL 3872788, at *26 (N.D. Cal. Aug. 15, 2018) (citation omitted).

The proposed distribution plan here gives no indication whether it would be practicable to

1 distribute the residue of the settlement fund to the class members. Without such information, the
2 Court cannot determine whether resort to a *cy pres* distribution is necessary to begin with.
3 Additionally, the proposed distribution plan allows Ocwen to use the settlement fund to pay the
4 claim administrator's fees, whereas the original settlement agreement requires Ocwen to "pay the
5 Claims Administrator's fees and costs" in addition to the class settlement. Docket No. 50-2 at
6 § 3.06. Thus, the current proposal gives the *cy pres* recipients approximately \$53,000 less than the
7 class members are entitled to under the settlement agreement.

8 The parties are accordingly ordered to submit a joint supplemental brief not to exceed 5
9 pages by September 18, 2018, addressing whether further distribution of the unclaimed funds to
10 the class members would be practicable.

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12 **IT IS SO ORDERED.**

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14 Dated: September 11, 2018

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17 EDWARD M. CHEN
18 United States District Judge
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